

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JOHN M. WASSON,

Plaintiff,

v.

**UNITED STATES, ROBERT VARNER,
BRETT THOMAS, CHRISTINE
HELBERG, JON MATYE, and
KATHLEEN M. ANDERS,**

Defendants.

Case No. 2:13-cv-01194-SU

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Patricia Sullivan issued a Findings and Recommendation in this case on April 24, 2015. Dkt. 75. Judge Sullivan recommended that all pending motions for summary judgment (Dkt. 57, 58) be granted.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1)(C). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

Plaintiff timely filed an objection (Dkt. 81) to which Defendants responded (Dkt. 85, 86). The Court has reviewed *de novo* Judge Sullivan's Findings and Recommendation, as well as Plaintiff's objections, Defendants' response, and the underlying briefing in this case. The Court agrees with Judge Sullivan's reasoning and adopts the Findings and Recommendation.

For those portions of Judge Sullivan's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

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Accordingly, the Court ADOPTS Judge Sullivan's Findings and Recommendation, Dkt. 75. The individual defendants' motion for summary judgment (Dkt. 57) is GRANTED. The United States' motion for summary judgment (Dkt. 58) is GRANTED. This case is DISMISSED.

IT IS SO ORDERED.

DATED this 26th day of June, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge